

REMARKS

The applicants acknowledge the Office Action of November 8, 2007 with appreciation. The Examiner acknowledges the Response of August 27, 2007 and indicates that Claims 21-40 are pending in the application, of these, Claims 30-40 are withdrawn from consideration. Claims 21-29 are presently under examination.

GENERAL NOTE TO THE EXAMINER:

In the instant non-final Office Action, the Office indicates that Claims 30-40 are withdrawn from consideration as being drawn to a non-elected invention. The record indicates that there has been no Restriction Requirement in the instant application. Claims 30-40 are directed to methods of using the isolated peptide of generic Claim 21, which method claims depend from, and include all the limitations of the generic claim. The Applicants request the Office consideration of all pending Claims 21-40 in view of the instant Response and Amendment.

REJECTION UNDER 35 U.S.C. § 112:

The Office rejects Claims 21-29 under 35 U.S.C. § 112, second paragraph, for failing to claim with particularity. The Office concludes that the language, drawn to "anti-apoptotic proteins of the Bcl-2 family" in generic Claim 21 is ambiguous and unclear as to which proteins are encompassed by this term.

With the instant Response, the Applicants amend generic Claim 21 to define the anti-apoptotic proteins of the Bcl-2 family which interact with the isolated peptide of SEQ ID NO:1 to be selected from Bcl-2, Bcl-XL and Bcl-W. Claim 22 is hereby canceled as being redundant on the generic claim. Reconsideration and withdrawal of the rejection is respectfully requested.

Furthermore, the Office concludes that the term "point mutant" in Claim 23 is confusing because it is not known whether the term is referring to a single point mutant or multiple point mutants of SEQ ID NO:1.

With the instant Response and Amendment, the rejection of Claim 23 is made moot in view of the Applicants' cancellation of Claim 23.

The Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

REJECTION UNDER 35 U.S.C. § 102(b):

Moving on, Claims 21-29 are rejected under 35 U.S.C. §102(b) as being anticipated by the disclosure of Shimkets, et al., International Application Publication Number WO/2000/058473.

The Applicants hereby amend Claim 21 to substitute the term "consists of" for the term "comprises". The Applicants submit that the amendment distinguishes the instant peptide over the broad disclosure of Shimkets, et al., for the fact that Shimkets, et al. lacks a specific description of the isolated peptide defined in SEQ ID NO:1. Moreover, Shimkets, et al. lack enablement for the isolated peptide defined in SEQ ID NO:1 which interacts with anti-apoptotic proteins, Bcl-2, Bcl-XL and Bcl-W. Reconsideration and withdrawal of the rejection for anticipation is respectfully solicited.

The Office rejects Claims 23 and 26 under 35 U.S.C. § 102(b) over the disclosure of Hammond, et al. (U.S. Application Publication No. 2003/0032157). The Office concludes that Hammond, et al. teach a point mutant of SEQ ID NO:1, and therefore, anticipates the claims.

The rejection is made moot by the Applicants' cancellation of Claims 23 and 26 directed to point mutants.

The Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b).

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Accordingly, entry of the present Response and Amendment, reconsideration of all grounds of objection and rejection, withdrawal thereof, and passage of this application to issue are all hereby respectfully solicited.

It should be apparent that the undersigned attorney has made an earnest effort to place this application into condition for immediate allowance. If he can be of assistance to the Examiner in the elimination of any possibly-outstanding insignificant impediment to an immediate allowance, the Examiner is respectfully invited to call him at his below-listed number for such purpose.

Allowance is solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By: 
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Enclosure: Listing of Claims; Extension of time fee, one (1) month, in the form of a check in the amount of \$120.00 and Postal Card Receipt.

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THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY FURTHER OR ADDITIONAL FEES WHICH MAY BE REQUIRED (DUE TO OMISSION, DEFICIENCY, OR OTHERWISE), OR TO CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 08,3220.